



June 22, 2006

TO: Transportation Authority of Marin Commissioners

FROM: Dianne Steinhauser, Executive Director

RE: Professional Services Agreement with Carter & Burgess, Inc. for the Highway 101 Greenbrae Corridor Project Reports and Environmental Documents, Agenda Item 12

Dear Commissioners:

**Executive Summary**

Over the past few months your staff has been evaluating and screening consulting firms who responded to the Request for Proposals (RFP) released March 7, 2006. TAM is seeking a qualified consulting firm to prepare project reports and environmental documents for proposed multi-modal transportation improvements along the Highway 101 Greenbrae Corridor. Our goal has been to select the most qualified firm who has demonstrated expertise and experience with large scale multi-modal transportation projects with environmental constraints similar to the Greenbrae Corridor.

In accordance with the Qualifications-Based Selection Guidelines, the firm of Carter & Burgess, Inc. of Oakland CA has been determined to be the most qualified consulting firm for the given scope of work. The Carter & Burgess team is supported by a number of local transportation firms. Staff has worked with the Carter & Burgess team to develop the contractual scope of services and related budget. The scope of services is consistent with the requirements as outlined in the RFP. The fee for service has been developed, negotiated and agreed upon to implement the scope of work and is considered to be reasonable. The fee to implement Task Order No. 1 is \$1,793,879.

The Highway 101 Greenbrae Corridor AdHoc Sub-Committee has been briefed on the results of this recruitment process and concurs with this recommendation.

Funding for this Agreement is provided from Regional Measure 2 funds, a \$1.00 increase in state bridge tolls (not from the Golden Gate Bridge)

**Recommendation: Approve the attached Agreement with Carter & Burgess, Inc. of Oakland CA in the amount of \$1,793,879 for professional services related to the proposed multi-modal transportation improvements to the Highway 101 Greenbrae Corridor.**

On February 23rd, the TAM Board concurred with the scope of work and professional services described in the draft RFP. The RFP was released for a six week preparation period with proposals due on April 17<sup>th</sup>. TAM was fortunate to have received a total of eight proposals from some of the best and well known consulting firms in the area.

To provide a thorough evaluation of the proposals a panel was assembled to assist staff with the determination of the most qualified firm for further consideration by the TAM Board. The recommendation panel consisted of personnel from surrounding public agencies, including the Department of Transportation, the Metropolitan Transportation Commission, the Golden Gate Bridge, Highway and Transportation District, the Town of Corte Madera, the City of Larkspur, TAM staff and a TAM Commissioner. The panel began by independently evaluating and ranking the written proposals. Based on this process, five firms were invited to participate in an oral interview consisting of a brief presentation by the team members followed by a question and answer session. The recommendation panel concluded that the team led by Carter & Burgess was the most qualified firm in response to the scope of work and services requested in the RFP.

The scope of Task Order No. 1 has been developed, in part, to be constant with the principles of context sensitive solutions (CSS) which are an emerging concept in highway project planning and design. The CSS process refers to an approach towards transportation projects that places emphasis in the early project development stages to involve all the affected stakeholders as part of the planning and design team. A significant component of this first task order will involve an expensive public outreach program. Over the next 12 months the Carter & Burgess team in conjunction with TAM staff will be collecting transportation related data, analyzing previously developed improvement concepts, and developing new improvement concepts. At the same time the team will be hosting numerous stakeholder meetings to present our recent progress and to obtain continuous feedback through an open dialog while working towards solutions that can be supported via a consensus building process.

The benefit of the CSS process is that by involving the effected stakeholders early in the development process, the majority of issues and concerns have been identified and considered as part of the proposed improvement concept. Solutions proposed early in the project development stages that properly fit into the context of the surrounding environment can result in a cost savings during future project stages. The project time schedule can also benefit from the CSS approach. By engaging the stakeholder early in the process, future objections and challenges may be averted allowing a project to remain on a predetermined schedule. It is for this reason the costs associated with Task Order No.1 are higher than what is typically seen for an early phase of a project's development. We expect this process to aid in the future development stages.

At the conclusion of Task Order No.1 we will have a set of multi-modal transportation improvement options and priorities that have been developed based on preliminary engineered concepts supported by related studies and reports. With these options and priorities, we will then be prepared to formally enter the environmental documentation and analysis stage. We do anticipate that some improvement options may be implemented on an accelerated schedule depending on the complexities of the option(s).

It is estimated the implementation of Task Order No. 1 and the preparation of the environmental documentation (future task order) will take approximately 32-36 months. Future task orders will be developed and authorized upon the successful completion of the first task order.

**Recommendation:** Approve the attached Agreement with Carter & Burgess, Inc. of Oakland CA in the amount of \$1,793,879 for professional services related to the proposed multi-modal transportation improvements to the Highway 101 Greenbrae Corridor.

Attachment: Contract No. C-FY05/06-007

TRANSPORTATION AUTHORITY OF MARIN  
STANDARD SHORT FORM CONTRACT

THIS AGREEMENT is made and entered into this 22<sup>nd</sup> day of June, 2006 by and between the TRANSPORTATION AUTHORITY OF MARIN, hereinafter referred to as "TAM" and Carter & Burgess Inc., hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, TAM desires to retain a person or firm to provide the following services: Prepare Project Reports and Environmental Documents for the Highway 101 Greenbrae Corridor; and

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by TAM, the parties agree to the following:

**1. SCOPE OF SERVICES:**

Contractor agrees to provide all of the services described in Exhibit "A" attached hereto and by this reference made a part hereof.

**2. FURNISHED SERVICES:**

The TAM agrees to:

- A. Guarantee access to and make provisions for the Contractor to enter upon public and private lands as required to perform their work.
- B. Make available all pertinent data and records for review.
- C. Provide general bid and contract forms and special provisions format when needed.

**3. FEES AND PAYMENT SCHEDULE:**

The fees and payment schedule for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as Exhibit "B" and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Contract. Contractor shall provide TAM with his/her/its Federal Tax I.D. number prior to submitting the first invoice.

**4. MAXIMUM COST TO TAM:**

In no event will the cost to TAM for the services to be provided herein exceed the maximum sum of \$ 1,793,879 including direct non-salary expenses.

**5. TIME OF AGREEMENT:**

This Agreement shall commence on June 22, 2006, and shall terminate on September 30, 2007. Certificate(s) of Insurance must be current on day Contract commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor. The final invoice must be submitted within 30 days of completion of the stated scope of services.

**6. INSURANCE:**

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to TAM. The general liability policy shall be endorsed naming the TRANSPORTATION AUTHORITY OF MARIN as an additional insured. The certificate(s) of insurance and required endorsement shall be furnished to the TAM prior to commencement of work. Each certificate shall provide for thirty (30) days advance notice to TAM of any cancellation in coverage. Said policies shall remain in force through the life of this Contract and shall be payable on a per occurrence basis only, except those required by paragraph 6.4. a. and b. which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify and hold the TAM, its employees, officers, and agents, harmless and defend the TAM against any and all claims, damages, losses and expense that may arise by reason of the Contractor's negligent actions or omissions. TAM agrees to timely notify Contractor of any negligence claim.

Failure to provide and maintain the insurance required by this Contract will constitute a material breach of the agreement. In addition to any other available remedies, TAM may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

A request for a waiver of any of the following insurance requirements must be set forth on Exhibit "C" attached hereto. A waiver must address reduced amounts of coverage or the type of coverage waived entirely.

### 6.1 GENERAL LIABILITY

The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000.00). The TAM shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page.  
(see sample form: ISO - CG 20 10 11 85).

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit "C")

### 6.2 AUTO LIABILITY

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars (\$1,000,000.00).

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit "C")

### 6.3 WORKERS' COMPENSATION

The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work under this Contract. If Contractor has employees, a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to TAM prior to commencement of work.

☐ Insurance Reduction or Waiver of Coverage Requested (Exhibit "C")

### 6.4 OTHER INSURANCES

Contractor may be required to carry additional insurance based upon the nature of the work to be performed (scope of services). For each additional required insurance, a corresponding certificate of insurance must be provided. Claims-made policies must have a retroactive date either prior to the effective date of the Contract or the beginning of the Contract work. Claims-made coverage must extend a minimum of twelve (12) months beyond completion of Contract work or end of current Contract, whichever is later. If coverage is cancelled or non-renewed, and not replaced with another claims made policy with a retroactive date prior to the Contract effective date, the Contractor must purchase extended reporting coverage for a minimum of twelve (12) months beyond completion of Contract work. Contractor shall maintain a policy limit of not less than one million dollars (\$1,000,000) per incident, with a deductible or self-insured retention not to exceed \$2,500 unless approved by the TAM.

6.4.a Professional Liability Insurance..... ☒ (check box if required)

\*Deductibles greater than \$2,500 require Insurance Reduction/Waiver form (Exhibit "C") to be completed.

6.4.b Maritime Insurance..... ☐ (check box if required)

### 7. NONDISCRIMINATORY EMPLOYMENT:

Contractor and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

### 8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the TAM except for any subcontract work identified herein. If Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to the TAM evidence of same.

### 9. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be transferred or assigned without the express prior written consent of the TAM.

**10. LICENSING AND PERMITS:**

The Contractor shall maintain the appropriate licenses throughout the life of this Contract. Contractor shall also obtain any and all permits which might be required by the work to be performed herein.

**11. BOOKS OF RECORD AND AUDIT PROVISION:**

Contractor shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this Contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this Contract. Contractor will permit TAM to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. Any audit may be conducted on Contractor's premises or, at TAM's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from TAM. Contractor shall refund any monies erroneously charged.

**12. TITLE:**

Any and all documents, information and reports concerning this project prepared by the Contractor, shall be the property of the TAM. The Contractor may retain reproducible copies of drawings and copies of other documents. In the event of the termination of this Contract, for any reason whatsoever, Contractor shall promptly turn over all information, writing and documents to TAM without exception or reservation.

**13. TERMINATION:**

- A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the TAM may terminate this Contract by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract so long as proof of required insurance is provided for the periods covered in the Contract or Amendment(s).

**14. RELATIONSHIP BETWEEN THE PARTIES:**

It is expressly understood that in the performances of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of the TAM. Contractor shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and worker's compensation.

**15. AMENDMENT:**

This Contract may be amended or modified only by written agreement of all parties.

**16. ASSIGNMENT OF PERSONNEL:**

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to TAM, as is evidenced in writing.

**17. JURISDICTION AND VENUE:**

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

**18. INDEMNIFICATION:**

Contractor agrees to indemnify, defend, and hold TAM, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's willful misconduct or negligent performance of this Contract. Nothing herein shall be construed as a limitation of Contractor's liabilities.

**19. COMPLIANCE WITH APPLICABLE LAWS:**

The Contractor shall comply with any and all Federal, State and local laws (including, but not limited to the TRANSPORTATION AUTHORITY OF MARIN Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Contract. Copies of any of the above-referenced local laws and resolutions may be secured from the TAM's contact person referenced in paragraph 20. NOTICES below.

**20. NOTICES:**

This Contract shall be managed and administered on TAM's behalf by the Department Contract Manager named below. All invoices shall be submitted and approved by this Department and all notices shall be given to TAM at the following location:

Contract Manager: Bill S. Whitney, P.E.  
Dept./Location: c/o Marin County Public Works Department  
3501 Civic Center Drive, Suite 304  
San Rafael, CA 94903  
Telephone No.: (415) 507-2810

Notices shall be given to Contractor at the following address:

Contractor: Carter & Burgess, Inc.  
Attention: Dina F. Potter, P.E.  
Address: 300 Frank H. Ogawa Plaza, Suite 10  
Oakland CA 94612  
Telephone No.: (510) 457-0027

**21. ACKNOWLEDGEMENT OF EXHIBITS**

**CONTRACTOR'S INITIALS**

EXHIBIT A. ☒ Scope of Services

BSR

EXHIBIT B. ☒ Fees and Payment

BSR

EXHIBIT C. ☐ Insurance Reduction/Waiver

IN WITNESS WHEREOF, the parties have executed this Contract on the date first above written.

APPROVED BY  
TRANSPORTATION AUTHORITY OF MARIN:

By: \_\_\_\_\_  
CHAIR, STEVE KINSEY

CONTRACTOR:

By: \_\_\_\_\_

Name: Dina F. Potter, Vice President

Telephone No.: (510) 457-0027

BRUCE S. RUSSELL  
JR VICE PRESIDENT  
(213) 889-1300

TAM COUNSEL REVIEW AND APPROVAL (Only required if any of the noted reason applies)

REASON(S) REVIEW:

- ☐ Standard Short Form Content Has Been Modified  
☐ Optional Review by TAM Counsel at Department's Request

TAM Counsel: \_\_\_\_\_

Date: \_\_\_\_\_